

Appl. No.: 09/897,757  
Amdt. dated: May 5, 2003  
Reply to Office Action of February 5, 2003

### **REMARKS/ARGUMENTS**

Claims 14-33 are pending with claims 32-33 added by this amendment.

Support for amended claim 14 and claim 32 can be found in the claims as originally filed and p. 23, lines 17-22, and Examples 3-5 at pages 29-32. Particularly, an H<sub>2</sub>/HC ratio generally between about 100 and about 600 and preferably 100-300 liters per liter is disclosed at page 23 and exemplary H<sub>2</sub>/HC ratios of 360 l/l and 330 l/l are disclosed at pages 29 and 30.

Thus, the features of the present claims, such as an H<sub>2</sub>/HC ratio of 200 – 600 l/l (relevant to claim 14) and of 300 – 600 l/l (relevant to claim 32), are supported per current case law, such as *In re Wertheim*, 191 USPQ 90 (CCPA 1976). In that case, the Court of Patent Appeals held that literal support was not always required to support a narrower range if a broader range was disclosed in the specification. In that case, the range of 35-60% was deemed supported by a broad range of 25-60% and examples of 36% and 50%. The decision *In re Blaser*, 194 U.S.P.Q. 123 is also on point where the literal range of 60-200°C was deemed to support 80-200°C. Applicants thus respectfully submit that the present claims are analogous and that the claims are properly supported in the specification.

### **Claim Rejections Under 35 U.S.C. §103(a)**

Claims 14-24 and 27-31 stand rejected as allegedly being obvious over U.S. Pat. No. 5,114,562 (Haun) in view of EP 0 419 266 A1 (Sawyer), and claims 25-26 stand rejected as allegedly being obvious over Haun in view of Sawyer, and further in view of U.S. Pat. No. 4,925,549 (Robinson). The action admits that the alleged combination of references does not teach or suggest an H<sub>2</sub>/HC ratio of between about 100 and about 600 liters, but alleges that it would be appropriate to use hydrogen in any amount effective for hydrotreating. Applicants respectfully traverse this rejection.

None of the cited references teach or suggest an H<sub>2</sub>/HC ratio as defined in the third stage. Moreover, one of skill in the art would not be motivated to apply such a range, because both Haun at column 5, lines 35-40, and Robinson (see e.g., the title) hydrotreat to protect a catalyst in a subsequent treatment zone. One of skill in the art would not be motivated to obtain the desired

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H<sub>2</sub>/HC ratio for saturating sulfur-containing compounds remaining in the gasoline. Failing to teach or suggest these features, Applicants respectfully submit that these rejections should be withdrawn.

In the absence of any express teachings for the H<sub>2</sub>/HC ratio, Applicants respectfully submit there would be no motivation to utilize the claimed H<sub>2</sub>/HC ratio.

In the absence of a more pertinent reference, it is respectfully submitted that it is proper for the Examiner to withdraw the rejection of all the claims. As for the dependent claims, they add another layer of unobviousness. Since they are clear on their face, Applicants will not burden the record with a detailed discussion of same, but reserve the right to do so at a later date if ever necessary.

In view of the above remarks, favorable reconsideration is courteously requested. If there are any remaining issues which can be expedited by a telephone conference, the Examiner is courteously invited to telephone Counsel at the number indicated below.

Respectfully submitted,

James E. Ruland (Reg. No. 37,432)  
Attorney for Applicant(s)

MILLEN, WHITE, ZELANO & BRANIGAN, P.C.  
Arlington Courthouse Plaza I, Suite 1400  
2200 Clarendon Boulevard  
Arlington, Virginia 22201  
(703) 812-5338 [Direct Dial]  
Internet Address: ruland@mwbz.com

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